

Economic Impact Statement
LSA Document #06-515

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The proposed amendments will impose requirements or costs on small businesses under [IC 4-22-2.1-5](#).

Impact Statement for Proposed Rule Changes

The Public Works Division (PWD) of the Indiana Department of Administration was established by law under [IC 4-13.6](#) and empowered to adopt rules under [IC 4-13.6-3-1](#).

Rules for PWD procedures were adopted in 1973 with minor modifications made in 1982 and 1992. The primary purpose of the rule changes is to update the rule in accordance with current law, procedures, and policies. ([25 IAC 2](#))

The PWD administers building and infrastructure construction and preventative maintenance contracts for approximately 15 state agencies and institutions. Funding for these projects is appropriated by the legislature as part of the general budget. The average annual expenditure for these contracts is 65 million dollars. ([IC 4-13.6-2](#))

PWD law provides for the prequalification of all private architectural and engineering designers and for those construction contractors who wish to provide services to the state on construction projects exceeding \$150,000. ([IC 4-13.6-4](#))

[IC 4-13.6](#) and [25 IAC 2](#) establish PWD methods for administering design and construction contracts and for the prequalification of designers and contractors. The law, rules, policies, and procedures for PWD closely parallel those of the private construction industry. It is in the best interest of the state to follow the construction industry standards as a principal incentive for private companies to do business with the state.

1. Estimate of the Number of Small Businesses Subject to the Rule

The PWD has no historical data to support an accurate estimate of small businesses subject to the rule. Construction projects less than \$150,000 have no requirement for prequalification; therefore, any business that deems itself capable of completing the work may submit a bid. The only restrictions are those that involve the submission of a bid. Under these circumstances, all who bid are subject to the rule, but PWD records include only the information necessary to execute a proper contract with the successful low bidder.

2. Estimate of Annual Administrative Cost

For businesses participating on contracts below \$150,000, the administrative cost for a state construction cost would not be any more than for a similar nonstate contract since the rule does not add any requirements that would not be expected on any construction project.

Construction businesses that wish to participate above \$150,000 and all design businesses must first be prequalified by the PWD. The process includes submission of an application and substantiation of corporate good standing. The cost of preparation and submission of the application is minimal and similar to any private sector prequalification requirement.

In the construction industry, it is common practice to include in a bid proposal most of the administrative costs of the contract. Thus, if an owner includes additional or unusual requirements in a solicitation, the anticipated additional cost is included in the contractor's proposal and paid by the owner. Therefore, it is the opinion of the PWD that most, if not all, of the annual administrative costs are being paid by the state.

3. Estimate of Total Annual Economic Impact on All Small Businesses Subject to the Rule

As indicated previously, it is not possible for the PWD to estimate the economic impact to businesses subject to the rule due to insufficient data. However, it is the opinion of the PWD that most, if not all of the cost of compliance with the rule is included in the proposals submitted to the state and, therefore, paid by the state.

4. Justification of Cost Imposed by the Rule but Not Required by Statute

There are not any costs imposed by the rule not required by statute.

5. Analysis of Less Costly Alternative Methods of Achieving Purpose of Proposed Rule

The PWD considered methods of minimizing the economic impact of the proposed rule on small businesses as outlined in [IC 4-22-2.1-5\(5\)](#). Because the PWD absorbs the majority of administrative duties and costs, it is the PWD's opinion that is not any increase in cost to any other party, and, therefore, no less costly alternative exists.

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